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 Southern District of New York
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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

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 WINNIFRIED NOEL CHARLES, :
 Plaintiff, : ECF CASE
 :
 : No. 07 Civ. 8324 (JSR) (THK)
 :
 : -against- :
 :
 MICHAEL CHERTOFF, Secretary of the : NOTICE OF MOTION
 Department of Homeland Security, in his official :
 capacity, ENRICA TROY, MARY ANN :
 GANTNER, and the DEPARTMENT OF :
 HOMELAND SECURITY, :
 :
 Defendants. ----- x

PLEASE TAKE NOTICE that upon the amended complaint, defendants' Local Rule 56.1 Statement, defendants' memorandum of law, the Declaration of Gwynne MacPherson and the exhibits annexed thereto, the Declaration of Joseph A. Pantoja and the exhibits annexed thereto, the Declaration of Jill A. Eggleston and the exhibits annexed thereto, and all other pleadings and proceedings in this action, defendants will move this Court on July 7, 2008, at 4 p.m., before the Honorable Jed S. Rakoff, United States District Judge, United States District Courthouse, 500 Pearl Street, Courtroom 14B, New York, New York 10007, for dismissal of the amended complaint for lack of subject matter jurisdiction and failure to state cognizable claims pursuant to Rules 12(b)(1) and (b)(6), and for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure and for such other relief as is just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to the briefing schedule set by the Court, answering papers, if any, are due to be served upon the United States Attorney's Office for the Southern District of New York, 86 Chambers Street, 3rd Floor, New York, New York 10007, on or before June 18, 2008, and defendants' reply papers, if any, are due to be served on or before June 25, 2008.

Dated: New York, New York
June 4, 2008

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney for the
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Attorney for Defendants

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